

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 17875 of 2005(C)

EP.121/2005 of PRL.M.C.,ERNAKULAM

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PETITIONER:

SINGARAM, S/O.MUTHUSWAMY, BLDG.NO.41/
3238, CATCHETICAL BUILDING, BANERJIROAD,
ERNAKULAM.

BY ADV. SRI.R.PADMARAJ
SRI.BIJU HARIHARAN

RESPONDENTS:

ARCHIODIOCESE OF VERAPOLY, BROADWAY
ERNAKULAM, KOCHI 31, REP. BY ITS PRESENT
PROCURATOR AND POWER OF ATTORNEY HOLDER REV.FR.
JEROM CHAMMUNIKODATH, AGED 45, VARUTHUKUTTY, RESID
ING AT LATIN ARCH BISHOP'S HOUSE, BROADWAY,
ERNAKULAM, KOCHI 31.

BY ADV. SRI.T.P.SAJAN
SRI.L.ALOYSIUS THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC NO. 17875/2005

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE DECREE IN O.S. NO. 223/2002.

EXT.P2: COPY OF APPEAL MEMORANDUM IN A.S. NO. 35/05 OF THE DISTRICT COURT ERNAKULAM.

EXT.P3: COPY OF STAY PETITION WITH ITS AFFIDAVIT FILED IN DISTRICT COURT ERNAKULAM.

EXT.P4: COPY OF PETITION FOR CONDONATION OF DELAY IN FILING APPEAL FILED IN DISTRICT COURT ERNAKULAM.

EXT.P5: COPY OF THE EXECUTION PETITION NO. 121/05 OF MUNSIF COURT ERNAKULAM.

EXT.P6: COPY OF THE REVIEW PETITION IN E.P. NO. 121/05 WITH ITS AFFIDAVIT.

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 17875 of 2005

Dated this the 31st day of May 2007

JUDGMENT

The judgment debtor/petitioner impugns the order of delivery issued by the Execution Court mainly on the ground that appeal preferred by him against the decree was pending before the District Court. According to the petitioner, the Execution Court was bound to wait till orders are passed by the District Court on the stay petition which had been filed. On admitting this writ petition, this court granted stay for a period of one month and the above said order is being continued from time to time. Considering the only ground raised in the writ petition, I am of the view that this writ petition itself can be disposed of issuing the following directions:-

The District Court, Ernakulam, which is in seisin of A.S. 353/2005 is directed to hear and dispose of the same at the earliest and at any rate within three months of receiving a copy

of this judgment. If that court finds any genuine difficulty for disposing of A.S.353/2005, then orders will be passed in the stay petition filed by the petitioner within the aforesaid time limit. Considering the above directions, the order of stay presently passed in this case will continue for a period of five more months from today.

**PIUS C. KURIAKOSE,
JUDGE.**

dpk